



November 17, 2016

Ms. Sharon Ongerth Rossi  
Rogers Joseph O'Donnell  
311 California Street, Tenth Floor  
San Francisco, CA 94104

Dear Ms. Rossi:

This is in response to your U.S. General Services Administration (GSA) Freedom of Information Act (FOIA) request (GSA-2016-000844) submitted on June 6, 2016, in which you requested the following:

“All documents, including emails and other written communications, regarding or comprising contracts, modifications, options, extensions, and negotiations with Apex Mechanical, Inc. for maintenance services at the Leo J. Ryan Federal Records Center, 1000 Commodore Drive, San Bruno, CA 94066, including, but not limited to, for Contract Number GS-09P-11-KS-D-0049, awarded May 6, 2011.

All documents, including emails and other written communications, between the GSA and the Department of Labor relating to Apex Mechanical, Inc.'s performance of Contract Number GS-09P-11-KS-D-0049, awarded May 6, 2011, and any extensions, options and modifications thereto.

All documents, including emails and other written communications, regarding or comprising contracts, modifications, options, extensions, and negotiations with WMB General Contractors, and/or WMB Financial Solutions for maintenance services at the Leo J. Ryan Federal Records Center, 1000 Commodore Drive, San Bruno, CA 94066, including, but not limited to, for Contract Number GS-09P-15-KS-D-0028.

All documents, including emails and other written communications, regarding or comprising contracts, modifications, options, extensions, and negotiations with Enovity, Inc. for maintenance services at the Leo J. Ryan Federal Records Center, 1000 Commodore Drive, San Bruno, CA 94066, including, but not limited to, for Contract Number GS-09P-11-KS-M-0029.

All documents, including emails and other written communications, regarding or comprising contracts, modifications, options, extensions, and negotiations with any other contractor and/or interim contractor for maintenance services at the Leo J. Ryan Federal Records Center, 1000 Commodore Drive, San Bruno, CA 94066, for the period of January 1, 2008 to the present.

All documents, including emails and other written communications, regarding union and non-union pay rates for employees employed by contractors working under service and/or maintenance contracts at the Leo J. Ryan Federal Records Center, 1000 Commodore Drive, San Bruno, CA 94066, for the period of January 1, 2008 to the present.”

Following a telephone conversation between Ms. Lelia Pagan, Administrative Officer and Mr. Joshua Deitz of Rogers Joseph O'Donnell on June 7, 2016 to narrow the scope of your request, Mr. Deitz emailed Ms. Pagan with a quick summary of thoughts / potential ways to narrow your request for the items below

1. Contracts / Modifications for: Apex Mechanical, Inc., Contract Number GS-09P-11-KS-D-0049 (“Apex Contract”), the predecessor contract (and any interim contracts), and the successor contract (and any interim contracts). We believe these may be the following contracts, but because we do not have the contracts, we cannot confirm that they are actually the predecessor and successor contracts for the specific contract with Apex.

- Enovity, Inc. , Contract Number GS-09P-11-KS-M-0029
- WMB General Contractors, and/or WMB Financial Solutions, Contract Number GS-09P-15-KS-D-0028

As I mentioned on the phone, we found that the contracts were described in slightly different terms (which accounts for our broad description of “maintenance services”). If we can pin down the specific contracts at issue (including any interim contracts), we can narrow the requests to those specific contracts, which should help narrow the search.

2. Communications: We can discuss how to narrow the requests, and I have some notes below, but I believe that some of the requests can be properly restricted, either by the documents in an existing procurement file for each contract (should one exist), or by topic.

Requests 1, 3, and 4 request a subset of documents for each of the listed contracts that may be either contained within an existing procurement file. If not, I think the description of the subset (“regarding or comprising contracts, modifications, options, extensions, and negotiations”) should help to exclude day-to-day emails, emails on other subjects, etc. Request 5 requests the same documents for the interim contracts. If you can identify whether any interim contracts exist, and the details of those contracts, we can likely narrow this request to those contracts.

Request 2 requests communications between GSA and the Department of Labor on the Apex Contract. I'm not sure how frequently your agencies communicate on specific contracts, but I think it will be difficult to narrow this request further.

Request 6 requests documents regarding union and non-union pay rates. We may be able to narrow this to the specific contracts described above, once we have identified those contracts accurately.

Following email communications between Ms. Pagan, Mr. Gene Dea, Program Analyst, and Mr. Deitz between June 14, 2016 and August 19, 2016 to narrow the scope on email communications request, Mr. Deitz provided the following:

"We have reviewed the original requests and come to a narrower set of search parameters that should result in a much smaller number of potentially responsive documents. I provide these updated search strings as part of our effort to cooperate to uncover responsive documents, but I want to emphasize that we are not waiving any portion of our original request as of yet. Below, I am providing updated search strings for requests 1, 2, and 6, with the understanding that the contract documents that are currently in the process of review may satisfy Requests 3, 4, and 5. As such, we are willing to pause on any further email searches under Requests 3, 4, and 5, though we may need to revise and refine those requests when we receive the contract documents.

**Request 1.** Apex contract and negotiations - Time Period: January 1, 2011 – present; Mailboxes: all \*@gsa.gov email addresses

Two search strings using those parameters:

- (all email to, from, CC, BCC using "apex.us.com" email addresses)
- (all email including "apex.us.com" in the body of the email)

**Request 2.** Documents and communications between GSA and DoL regarding Apex - Time Period: January 1, 2011 - June 6, 2016; Mailboxes: all \*@gsa.gov and \*@dol.gov email addresses

One search string:

- ("Apex" OR "GS-09P-11-KS-D-0049") AND (\*@dol.gov in to/from/cc/bcc)

**Request 6.** Documents regarding union and non-union pay rates: Time Period: January 1, 2009 – present; Mailboxes: all \*@gsa.gov email addresses

Search strings:

- ("Apex" OR "GS-09P-11-KS-D-0049") AND ( "104" OR "union" OR "certified payroll" OR "OMB No 1235-0008")
- ("Leo J. Ryan" OR "NARA") AND ("104" OR "union") AND ("wage" OR "pay" OR "rate") – Time Period: January 1, 2008 to the June 6, 2016.
- ("WMB" OR "GS09P15KSD0028") AND ("wage" OR "pay" OR "rate" OR "certified payroll" OR "CBA" OR "Collective Bargaining Agreement" OR "OMB No 1235-0008")
- ("Enovity" OR "GS-09P-11-KS-M-0029" OR "GS09P10KSM0158") AND ("wage" OR "pay" OR "rate" OR "certified payroll" OR "OMB No 1235-0008")

NOTE re Requests 3, 4, and 5: As GSA has identified the contracts for these contractors, we are willing to pause these search strings and prioritize Requests 1, 2, and 6.

3. WMB contract and negotiations – Time Period: January 1, 2015 – present;  
Mailboxes: all \*@gsa.gov email addresses

Search strings:  
("WMB" OR "GS09P15KSD0028")

4. Enovity contract and negotiations – Time Period: January 1, 2010 – July 1, 2011; Mailboxes: all \*@gsa.gov email addresses

Search strings:  
("Enovity" OR "GS-09P-11-KS-M-0029" OR "GS09P10KSM0158")

5. Predecessor / Successor / Interim contracts and negotiations –If GSA informs us of any additional contracts, we will update this request with that information"

GSA requested an extension to allow GSA's Office of Chief Information Officer (OCIO) sufficient time to conduct an email data pull. GSA OCIO is working on the data pull and we will provide information on the search results once available. This release is a partial release of a portion of the contract file only. Additional responsive records comprising the contract file are currently being processed, and once that is completed will be released. Further, as to electronic records potentially responsive to your now further narrowed request, the Agency is in the process of locating any such records and will work to process those, as well

Given the volume of records yielded from the request and the time necessary for comprehensive review, GSA is providing records based on a review of the first 430 pages of responsive documents. GSA personnel are working expeditiously to provide the remaining documents on a rolling basis. This release of documents include pages from contract files GS-09P-11-KS-D-0049 and GS-09P-15-KS-D-0028.

For all documents provided, we have made redactions pursuant to FOIA 5 U.S.C. §552, where applicable, as noted below.

1) **Exempt from disclosure by statute**

CPARS evaluation report for Apex, which is prohibited from release pursuant to Federal Acquisition Regulation 42.1503 (2)(d), which considers such information source selection information, and thus is prohibited from release by statute under the Procurement Integrity Act (41 U.S.C. 423(b)), and thus subject to FOIA Exemption (b)(3).

2) **Confidential Business information**

GSA has also redacted confidential business information pursuant to 5 U.S.C. §552(b)(4). This material is confidential business information of a bidder, and disclosure of this information would adversely impact the bidder's ability to compete in future requests for proposals.

3) **Attorney Client Privilege and Deliberative Process Privilege**

GSA has redacted attorney-client privilege information pursuant to 5 U.S.C. §552(b)(5). Additionally, GSA has redacted information containing the Agency's decision making process, pursuant to 5 U.S.C. §552(b)(5).

4) **Personally Identifiable Data**

GSA has redacted cell phone numbers, signatures, and other personally identifiable data pursuant to 5 U.S.C. § 552(b)(6) because their inclusion would constitute a clearly unwarranted invasion of personal privacy.

Based on the above information, this constitutes a partial denial of your requests. You have the right to appeal this partial denial of records under FOIA. To do so, you must write within 90 days (February 13, 2017) of your receipt of this letter to:

U.S. General Services Administration  
Freedom of Information Act Office (H1F)  
1800 F Street, NW, Room 7300  
Washington, DC 20405-0001

Your appeal must be in writing and should contain a brief statement of the reason(s) why the withheld information should be released. Please enclose copies of your initial request and a copy of this letter. Both the appeal letter and envelope should be marked prominently "Freedom of Information Act Appeal."

This completes our action on this first release. The second release is being processed and as soon as we finalize the redactions and approvals, we will release this to you as well. Should you have any questions, please contact Gene Dea at (415) 522-2653 or by email at [gene.dea@gsa.gov](mailto:gene.dea@gsa.gov). You may also contact the GSA FOIA Public Liaison, Audrey Brooks, at (202) 205-5912 or by email at [audrey.brooks@gsa.gov](mailto:audrey.brooks@gsa.gov) for any additional assistance and to discuss any aspect of your FOIA request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at (202) 741-5770; toll free at (877) 684-6448; or facsimile at (202) 741-5769.

Sincerely,

*Travis Lewis*

Travis Lewis  
FOIA Program Manager

Enclosures